



MIAMI TRIBE OF OKLAHOMA BUSINESS DEVELOPMENT AUTHORITY
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August 15, 2012

Chairman Tracie L. Stevens
Nation Indian Gaming Commission
1441 L Street, NW Suite 9100
Washington, D.C. 20005

Subject: NIGC's 25 C.F.R. Part 547 Discussion Drafts

Dear Chairwoman Stevens:

Please accept the following as the Miami Tribe of Oklahoma Business Development Authority's ("MBDA") comments on the National Indian Gaming Commission's 25 C.F.R. Part 547 Discussion Drafts. We appreciate the opportunity to submit written comments on the revisions to the Class II Technical Standards and we will focus our comments on the "grandfather provisions" and the impact the implementation of the proposed rules will have on the MBDA and tribal gaming facilities. We ask that you give favorable consideration of the comments provided below. We further ask that you review and support the proposed changes to Part 547 submitted by the Tribal Gaming Working Group (TGWG) to the NIGC.

Despite strong objections raised by tribal leadership and the Indian gaming industry, the NIGC has retained the substantive requirements of the grandfather provisions. Under the proposed rule, if a Class II gaming system was manufactured or placed in a tribal facility on or before November 10, 2008, and it fails to meet even a single one of the technical requirements found in Part 547, then it must be retired and removed from operation by November 10, 2013.

The MBDA has certified Class II gaming systems operating in Indian gaming facilities across the nation that may be impacted by these proposed regulations. These systems have contributed to the profitable Class II market within these facilities. These Class II gaming systems have helped tribes preserve economic self-determination, and have operated safely and with integrity. The NIGC proposes a retroactive product recall of these systems without showing a defect or flaw that poses an imminent harm to its users. Congress has not authorized the NIGC to promulgate regulations that apply retroactively to these segregated products. As a result, there is serious doubt that the NIGC has the power to impose this retroactive regulation.



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The MBDA is further concerned with the potential interpretation of the proposed rules, if promulgated, to require the removal of all Class II gaming systems from operation after November 10, 2013. The TGWG explains in detail this interpretation of the proposed Part 547 revisions in its submission to the NIGC regarding the proposed rules, including those that have been certified compliant with the existing regulation. The MBDA agrees with the TGWG that the final promulgation of the rules must be drafted so as to not allow this interpretation. This would be accomplished if the NIGC accepted the TGWG's revisions to the proposed rules. The MBDA urges the NIGC to adopt the TGWG's revisions to the proposed rules.

Tribes have spent millions of dollars fighting to preserve Class II gaming and the self-determination it provides tribal governments. Tribal gaming facilities have spent millions of dollars marketing Class II gaming to promote those same goals. Tribal gaming regulatory authorities have spent millions of dollars regulating Class II gaming, including conducting their own tests on the safety, integrity, and accuracy of the gaming systems. This proposed recall will have significant economic harm for tribes forced to remove Class II gaming systems from their operations and seek alternatives that do not yet have a proven market acceptance at their particular facility.

The NIGC's proposed regulations undermine tribal sovereignty by mandating the removal of Class II gaming systems that have been approved by the tribal gaming regulatory authority. The NIGC proposed regulations would force tribal gaming regulatory authorities to reverse previous approvals based not on evidence of what is best for their tribe, but instead on a retroactive mandate promulgated by the federal government. Finally, the proposed rules would force the MBDA and tribal gaming facilities to forego revenue and expend hundreds of thousands of dollars on conversion costs for gaming systems that operate safely and with integrity.

The MBDA requests the NIGC reconsider the 25 C.F.R. Part 547 five-year sunset clause, and instead proposes the NIGC adopt the revision proposed by the TGWG.

Best regards,

A handwritten signature in black ink that reads "Gerald L. Danforth".

Gerald Danforth
Chairman
Miami Tribe of Oklahoma Business Development Authority